

**CHERWELL DISTRICT COUNCIL**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**RESPONSE TO COSTS APPLICATION**

Application for costs by Mr Roger Yates against the decision by Cherwell District Council to refuse the prior notification application for a change of use of existing farm buildings into a single residential dwelling (use class C3) relating to Barns at Crockwell House Farm, Manor Road, Great Bourton (Council's ref. 20/01902/Q56, PINS ref. APP/C3105/W/20/3264358)

**1 INTRODUCTION**

- 1.1 The following constitutes the Council's response to the Appellant's costs application.
- 1.2 The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG states that an application for costs will need to 'clearly demonstrate' how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
- 1.3 The Council's response to this cost application focusses on responding to the reasoning as set out in the letter from Ridge, which constitutes the Appellant's costs statement.

**2 COUNCIL'S RESPONSE TO APPELLANT'S COSTS APPLICATION**

- 2.1 The Appellant refers at point 2 to the Council's determination of the application on the basis of a request for request for prior notification under both Class Q (a) and Class Q (b).
- 2.2 The Council has set out its response to this point at paragraphs 1.4 to 1.9 of its statement of case. In particular (1) the application form submitted by the Appellant referred to both parts of Class Q; (2) the correspondence from the Appellant in the application covering letter was not before the Case Officer at the point of consideration and was not known to the team leader who reviewed the recommendation; (3) no more and no less information was submitted with the application to enable determination of the application than with many prior notification applications submitted to the Council under Class Q, i.e. it was not apparent to planning officers from the submission that was available to us as to the application being made on the basis of Q(a) only.
- 2.3 In short, that the Council made a mistake is now evident, but the Council has not at all acted unreasonably. (The Council would suggest that it is unreasonable for genuine mistakes to be considered demonstration of unreasonable behaviour.)

- 2.4 In relation to point 5 of the Ridge letter, the Council would refer the Inspector to paragraphs 2.5 to 2.7 of its statement of case. The Council completely refutes any suggestion that it has behaved unreasonably and would submit that insofar as it rests on point 5 the Appellant's costs application is frivolous.
- 2.5 In relation to point 6 of the Ridge letter, the Council would refer the Inspector to paragraph 2.8 of its statement case.
- 2.6 In relation to points 7 and 13 of the Ridge letter, the Council would refer the Inspector to paragraphs 1.8, 1.9, 2.9 and 2.10 of its statement case. The Council continues to defend certain elements of refusal reason 3 and *is* able to substantiate those elements of refusal reason 3.
- 2.7 In relation to point 17 of the Ridge letter, the Council strongly disagrees with the suggestion that the Council has misinterpreted the legislation. Class Q relates to buildings in agricultural use and the permitted development right relates only to a site that was solely in agricultural use on 20<sup>th</sup> March 2013, etc. and relates only to a building that was/is part of an established agricultural unit. It is not reasonable to expect the decision maker to make assumptions as to compliance with these requirements through lack of information submitted with an application.
- 2.8 Other than in relation to the Council's mistake regarding the basis on which the application was made, this is a frivolous costs application

### **3 CONCLUSION**

- 3.1 The PPG advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. However, it further states: *'where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs'*.
- 3.2 The reasons for refusal are clearly set out within the decision notice for the application (20/01902/Q56) and further expanded upon and fully justified within the publicly available Officer's delegated report. The Council notes that the application covering letter was not before the Case Officer at the point of the assessment nor is it something of which the team leader would have been aware when reviewing the recommendation and signing out the decision.
- 3.3 The Council submits that it has not acted unreasonably in making its decision on the application. Whilst the Appellant is clearly aggrieved at the decision of the Council, this is a

matter of planning judgement and such matters are to be considered under the main appeal. The Council considers there to be no evidence that the Council has acted anything other than reasonably in all respects of the determination of the application, and therefore the application for costs should not succeed.

**Documents referred to in this statement are available for inspection at Cherwell District Council, Bodicote House, Bodicote, Banbury during normal office hours.**

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Planning Application Number: 20/01902/Q56

Date: 10/08/21

